

The Retailers' Occupation Tax Act imposes a tax upon persons engaged in the business of selling at retail tangible personal property. 35 ILCS 120/2. (This is a GIL.)

January 29, 2004

Dear Xxxxx:

This letter is in response to your letter dated October 15, 2003, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I am writing to request an opinion on whether the charges for management services are subject to the Illinois Retailer's Occupation Tax.

Background

ABC is a distributor of plumbing, heating and air conditioning equipment, pipe, valves, fitting and other industrial products. ABC also provides services to manufacturing companies.

The request involves our Services division. ABC has invested heavily in developing our expertise in this area. The Services division works with companies to reduce their maintenance and repair product costs, through inventory management expertise, technology advances, and labor productivity. The attached Exhibit II is a copy of our Internet marketing for the Services Division.

Facts

ABC has entered into a Services contract at an Illinois location with XYZ. The portions of the contract pertaining to compensation appear in Exhibit I. The contract stipulates that ABC will manage the supply room for indirect supplies for XYZ using our Services

expertise. ABC will provide onsite employees to collect requisitions from the various departments within the customer's plant. The ABC employees then locate a supply source for the requisition, order the product, receive it, and deliver it within the plant. When appropriate the ABC employees will manage backup inventories for recurring and time critical products.

The compensation for this contract is provided in two ways. First, ABC bills the XYZ based on the cost of the product plus a markup called a 'Volume Fee'. ABC charges XYZ for the Illinois Retailer's Occupation Tax on the combined cost of the products plus the markup or Volume Fee unless the products qualifies for an exemption.

Second, ABC also bills the customer a 'Management Fee'. The Management Fee is intended to compensate ABC for providing storeroom management services and expert systems to XYZ. This Fee is independent of the sale of the product, and it is reviewed annually. The Fee is based on the actual cost of providing the storeroom management services.

ABC believes the Management Fee represents a distinct and separate billing for labor and consulting and as such, the billings for the Management Fee are not subject to the Illinois Retailer's Occupation Tax.

Request

Where as ABC and XYZ have entered into a contract whereby ABC will provide services to XYZ, ABC respectfully requests confirmation the Management Fee addressed Section 5 (A)1. of Exhibit I does not represent a Sale at Retail under Section 130.201 subject to the Illinois Retailer's Occupation Tax.

If you have any questions, please call me.

You inquired about gross receipts. Please see 35 ILCS 120/1, 35 ILCS 120/2 and 86 Ill. Adm. Code 130.401.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk